

Each Permittee will seek to achieve compliance by developers with minimum water quality protection requirements (Table 2-1) and applicable BMPs through site inspections, review of self-audits by developers/contractors, enforcement procedures, and other means as described in this section.

3.1 PERMITTEE SITE INSPECTION RESPONSIBILITIES

Each Permittee will assess whether the minimum requirements for Development Construction Projects are being achieved and applicable BMPs are being implemented. Site inspections will also determine if Local SWPPPs/WWECs are being implemented at projects where they apply. Each Permittee will also develop and implement enforcement procedures to require that corrective actions be undertaken when the requirements are not met. The program will include the following elements:

- Permittee Inspections;
- Developer/Contractor Self-Inspections; and
- Enforcement Procedures

3.2 INSPECTION PROCEDURES

Development Construction Projects are routinely checked by municipal inspectors to verify that the construction work is being performed in accordance with the project plans, building and grading permits, and applicable municipal codes. When a project is in violation of these permits or codes, inspectors have the authority to enforce respective permit conditions by issuing verbal warnings, written notices, or stop work orders. Additional administrative actions may be taken, including revoking the building or grading permit or issuing fines. Inspections may be conducted for various reasons, and at various times and include Permittee site inspections currently performed in ongoing programs, as well as routine owner/contractor self-inspections. At their sole discretion, and when warranted, the Permittee may implement SWPPP/WWECs and take other measures deemed necessary to protect public health, safety, and welfare with their own resources or by contract.

3.2.1 Permittee Inspections

Permittees or their designated agents must conduct at least one inspection of all construction projects with one acre and greater of disturbed soil during the rainy season. If the inspected site

is not meeting minimum storm water quality protection requirements and/or adequately implementing local SWPPP, Permittee inspectors must follow-up within two weeks to assure that the storm water quality requirements are implemented. When conducting an inspection, the Permittee's inspector shall observe the site for compliance with the water quality protection requirements.

The primary mechanism Permittee inspectors will use to determine if minimum water quality protection requirements and BMPs for development construction are being met will be to assess the site against the narrative requirements in Table 2-1. These narrative requirements are intended to be easy to interpret field observations that allow an assessment of site conditions during both dry and wet conditions. Inspection training will focus on how to recognize whether minimum water quality protection requirements are being achieved at any time during the year.

Each Permittee must be able to demonstrate the existence of a site inspection and enforcement program to achieve compliance with the water quality protection requirements. Appendix H provides a model checklist that is particularly suited for more detailed inspections if it is determined that BMPs requirements are not being achieved and corrective actions need to be documented.

Additional inspections should be conducted at the discretion of the Permittee to verify compliance with storm water pollution prevention measures, particularly when grading activities are being conducted during the rainy season. The need for such inspections may vary depending upon several factors including:

- Site conditions;
- Previous violations;
- History of developer or contractor performance; and
- Weather patterns.

3.2.2 Developer/Contractor Self-Inspection Requirements

Construction is a dynamic operation where changes are expected. BMPs for construction sites are usually temporary measures that require frequent maintenance to maintain their effectiveness and may require relocation and re-installation, particularly as project grading progresses. Therefore, developer/construction self-inspections are required, particularly during the rainy season.

There are two primary purposes of the self-inspections conducted by developers and contractors:

- To ensure that BMPs are properly implemented and functioning effectively, and
- To identify maintenance (e.g., sediment removal) and repair needs.

An example form is provided in Appendix C that may be provided to developers and contractors by the Permittee for use in recording self-inspection results. When requested, self-inspection forms are to be made available to Permittee inspectors for their review.

Developers and/or contractors of projects subject to the General Construction Permit are required to perform self-inspections. In addition, self-inspections are required for construction projects one acre and greater. At a minimum, a developer self-inspection checklist, noting date, time, conditions and inspection date, must be kept on-site and made available for inspection, if requested. Self-inspections must be performed according to the following schedule:

- Before every rainfall event that is predicted to produce observable runoff and after every rainfall event that produces observable runoff, and
- At 24-hour intervals during extended rainfall events (except weekends or holidays when there is no ongoing site activity on those days).

More frequent inspections to ensure that developers are maintaining BMPs in good condition would be of benefit and Permittees may elect to require additional inspections by developers. For example, weekly self-inspections could be conducted during the wet season.

3.3 INSPECTION CRITERIA

3.3.1 Criteria for All Development Construction Projects

When permittees conduct inspections, the most important element of the inspection is to ensure that appropriate controls are in place that reduce pollutants from entering the storm drainage system. One element of which is to determine that the minimum requirements for Development Construction Projects are being achieved. If the inspector cannot affirmatively find that the minimum requirements are being achieved, the inspector shall require the developer to conform with those requirements.

The inspector may utilize the following framework when conducting an inspection:

- 1) Determine what BMPs are necessary to meet the minimum requirements;

- 2) Determine if BMPs are being used;
- 3) Determine whether BMPs are being implemented properly; and
- 4) Review developer's self-inspection checklist to determine whether minimum self-inspections have been performed.

Appendix H provides guidelines used during inspections for determining if corrective actions are necessary. If BMPs are either lacking or being implemented improperly, Section 3.4 provides a discussion of appropriate enforcement actions.

3.3.2 Criteria for Construction Projects with One Acre and Greater of Disturbed Soil

Permittees must conduct at least one inspection of all active construction projects with one acre and greater of disturbed soil during the rainy season. If the inspected site is not adequately implementing their Local SWPPP, Permittee inspectors must conduct a follow-up inspection within two weeks to confirm that compliance is attained. If compliance has not been attained, the Permittee will take additional actions in Section 3.4 to achieve compliance.

When conducting the initial Permittee inspection of the construction projects, the inspector will use the inspection checklist (or an equivalent) to evaluate conformance with minimum requirements and proposed BMPs in the local SWPPP, and to document deficiencies and corrective actions. If BMPs are either lacking or improperly implemented, refer to Section 3.4 for a discussion of appropriate enforcement actions. Appendix H provides guidelines used for site inspections.

3.3.3 Criteria for Development Construction Projects Subject to General Construction Permit

The Regional Board is responsible for verifying and enforcing requirements of the General Construction Permit. When Permittee inspections are conducted at sites covered by the General Construction Permit, the inspector will document observations of potential violations using the guidelines provided in Appendix H. Annual inspections will be completed using the checklist similar to the example in Appendix H. If violations are observed during the inspection, the Permittee must perform a follow-up inspection to ensure compliance within 2 weeks. The Regional Board shall be notified for further enforcement actions after two follow-up inspections within three months and two warning letters or notices of non-compliance.

Permittees shall refer non-filers (projects that cannot demonstrate that they have a WDID number) to the Regional Board within 15 days of making a determination. The Permittees shall include the following documentation:

- Project location
- Developer;
- Estimated project size; and
- Records of communication with the developer regarding filing requirements.

3.4 PROCEDURES FOR CORRECTIVE AND ENFORCEMENT ACTIONS

Enforcement of storm water pollution prevention requirements for Development Construction Projects will be conducted by the Permittee's inspectors and/or other Permittee staff with enforcement authority. Violations observed will be documented by the inspectors in accordance with the Permittee's existing procedures for recording violations. Depending on the severity of the violation, enforcement can range from a verbal warning, to a written notice, stop work order, having the work performed by the Permittee's own staff or by a contractor secured by the Permittee, or prosecution. Violations of the minimum requirements listed in Section 2.1 are to be treated with the same seriousness as violations of code provisions of similar importance.

Permittee inspectors will conduct a follow-up inspection to determine if corrective actions have been taken in accordance with minimum requirements. Escalating enforcement steps, leading up to the issuance of stop work orders and providing flexibility for the inspector to establish appropriate compliance time frames on a case-by-case basis, are to be used as needed to ensure compliance. Existing inspection/enforcement procedures should be used to achieve this result. *If a significant and/or immediate threat to water quality is observed by a Permittee's inspector, action should be taken to require the developer/contractor to immediately cease the discharge.* The threat to water quality shall be assessed by the inspector considering if runoff from a construction site will not be reasonably controlled by the protective measures in place or if a failure of BMPs is resulting in the release of sediments or other pollutants to a degree that may be substantially degrading water quality. The typical progressive enforcement steps that each Permittee should apply to the inspection enforcement program are:

- 1) Verbal warnings;
- 2) Written warnings; and

3) Stop work orders.

A discussion of these measures is provided below. While the provisions are not binding, the elements of these provisions should be incorporated in the Permittee's enforcement approach to the maximum extent practicable. Each Permittee's program should be consistent with existing enforcement mechanisms while generally conforming to the elements described in Sections 3.4.1 through 3.4.4.

3.4.1 Verbal Warnings

A common initial method of requesting corrective action and enforcing compliance is a verbal warning from the Permittee's inspector to the private contractor. Verbal warnings are often sufficient to achieve correction of the violation, often while the inspector is present at the construction site. The inspector will notify the developer/contractor's project supervisor of the violation, and document the violation and the notification to the project supervisor in the inspection file. A specific time frame for correcting the problem and a follow-up inspection date should be documented by the inspector. In judging the degree of severity, the Permittee inspector may also take into account any history of similar or repeated violations by the same developer or contractor at this or other sites.

3.4.2 Written Warnings

If the deficiency noted in the verbal warning is not corrected by the next inspection, a written notice of violation shall be issued describing the infraction that is to be corrected and the time frame for correction and for a follow-up inspection. A copy of the notice is to be given to the contractor's project supervisor and placed in the active inspection file. If the violation has been corrected to the satisfaction of the inspector, the inspector will document compliance in the inspection file. An example of a notice of violation form and a notice of correction form are provided in Appendix I. [Note that use of the specific forms provided as examples in Appendix I is not required.]

3.4.3 Stop Work Orders

If a notice of violation has not been addressed by the next inspection, or if the developer has not complied with their permit requirements, *or if a significant threat to water quality is observed* (such as a failure of BMPs resulting in a significant release of sediment or other pollutants off site), a stop work order may be issued by the appropriate municipal official. Stop work orders

prohibit further construction activity until the problem is resolved and provide a time frame for correcting the problem. The stop work order will describe the infraction and specify what corrective action must be taken. A copy of the stop work order will be given to the private contractor's project supervisor and placed in the active inspection file. To restart work once a stop work order has been issued, the private contractor's project supervisor must request the inspector to re-inspect the project and verify that the deficiencies have been satisfactorily corrected. If the inspector is satisfied with the corrections, the inspector may sign off on that phase of the project, and work may proceed. A copy of a sample stop work order form is provided in Appendix I. In severe cases, the building or grading permit may be revoked.

3.4.4 Fines

A fine may also be issued if the Permittee has the authority to do so.

3.5 SITE INSPECTION AND ENFORCEMENT EMPLOYEE TRAINING

Each Permittee will implement a training program for staff involved with development construction activities. The minimum requirements are:

- Training must promote a clear understanding of the potential for construction activities to pollute storm water; and
- Training must cover the identification of violations of storm water quality protection requirements for developer construction and implementation of corrective BMPs.

All existing construction inspection staff and other staff directly involved in development construction activities should receive formal training before August 1, 2002 for Permittees with a population of less than 250,000. For Permittees with a population of 250,000 or greater, initial training should be completed by February 3, 2003. New staff should receive formal training after assignment to Permittee's development construction staff. Refresher training should be conducted annually thereafter. Each Permittee is required to maintain a list of trained employees.

Training should cover the following areas:

- Minimum BMP requirements for Development Construction Projects;
- Description and contents of Local SWPPPs and WVECPs;
- Appropriate BMP applications and implementation;

- Inspection and enforcement procedures; and
- Use of inspection checklists.

Additional guidance for training employees involved in development construction activities is contained in Appendix J.

Relevant materials should be distributed to staff as appropriate. These may include checklists, guidance documents, materials included as appendices to this document, or other documentation that may be used later as reference information.

Informal training will be conducted periodically in conjunction with routine staff meetings, site inspections, or other opportunities as appropriate. Informal training is encouraged to include discussion of “lessons learned” in the field, introduction of new information, and periodic review of normal storm water inspection procedures.